

DIVERSION OF WATERS OF NIAGARA RIVER

Exchange of notes at Washington May 20, 1941

Approved by the Senate June 12, 1941

Approved by the President of the United States June 13, 1941

Supplemented by agreement of October 27 and November 27, 1941 ¹

Terminated October 10, 1950, by treaty of February 27, 1950 ²

55 Stat. 1276; Executive Agreement Series 209

The Secretary of State to the Canadian Minister

DEPARTMENT OF STATE

WASHINGTON

May 20, 1941

SIR:

I have the honor to refer to conversations which have taken place recently between officials of the Governments of the United States and Canada with respect to the immediate and pressing needs for additional power in the Niagara Falls area for national defense purposes. Throughout these conversations, as well as in previous conversations during the course of years, on the general subject of the Falls at Niagara, two objectives have been kept in mind: first, the scenic beauty of this great heritage of the two countries; and second, the utilization of the power resources available there, consistent with the primary obligation of preserving the scenic beauty of the Falls.

Recent surveys have indicated that there is now idle equipment available and set up which could utilize at once an additional diversion for power purposes of 5,000 cubic feet per second on the United States side. I am informed by the defense authorities of this Government and by the Federal Power Commission that this additional power is urgently needed in connection with the Government's National Defense Program. It is likewise understood from conversations with the appropriate Canadian officials that 3,000 cubic feet per second could be used immediately on the Canadian side in connection with the furtherance of the war efforts of Canada. These figures represent the immediate needs of the two Governments and do not pretend to take into consideration all industrial requirements of the two countries in the area by reason of the present emergency.

¹ EAS 223, *post*, p. 239.

² 1 UST 694; TIAS 2130.

In view of the above, and having in mind assurances of engineers that there will be no material adverse effect to the scenic beauty of the Falls, I propose through this exchange of notes that for the duration of the emergency and in all events subject to reconsideration by both Governments on October 1, 1942, an additional diversion for power purposes of 5,000 cubic feet per second be utilized on the United States side of the Niagara River above the Falls. In making this proposal this Government is prepared to give assurances that no objection will be raised to an additional diversion of 3,000 cubic feet per second on the Canadian side of the Niagara River above the Falls. It is also proposed that the engineers of the two Governments be instructed to take such steps as may be necessary with a view to initiating forthwith the construction of works designed to distribute the flow of water over the Falls in such a manner as to preserve their scenic beauty.

Moreover, the American Government proposes that upon the entry into effect of the Agreement for the Utilization of the Water in the Great Lakes—St. Lawrence Basin signed on March 19, 1941,³ the foregoing arrangements will be subject to the provisions of Article IX of the Agreement, and that it will be open to the Commission appointed under the provisions of the Agreement and carrying out the duties imposed upon it, to take such action as may be necessary, and as may come within the scope of the Agreement with regard to diversions at Niagara.

If the foregoing is acceptable to the Government of Canada, this note and your reply thereto, when approved by the Senate, shall be regarded as placing on record the understanding arrived at between the two Governments concerning this matter.

Accept, Sir, the renewed assurances of my highest consideration.

For the Secretary of State:

A. A. BERLE, Jr.

The Honorable

LEIGHTON McCARTHY,

Minister of Canada.

The Canadian Minister to the Secretary of State

CANADIAN LEGATION

WASHINGTON

May 20th, 1941

No. 301

SIR:

With reference to your note of May 20th, 1941, concerning the immediate and pressing needs for additional power in the Niagara Falls area for national defence purposes, I have the honour to inform you that the Government of

³ An agreement signed at Ottawa Mar. 19, 1931, was not perfected.

Canada concurs in the arrangements set forth in your note and is prepared to give assurances that no objection will be raised by the Government of Canada to an additional diversion of 5,000 cubic feet per second on the United States side of the Niagara River above the Falls.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

H. H. WRONG
For the Minister

The Hon. CORDELL HULL,
Secretary of State of the United States,
Washington, D.C.